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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION**

GOLDA BARTON, individually and as
mother and guardian of L.C., a minor child;
MICHAEL CAMERON, individually and as
father of L.C.,

Plaintiffs,

vs.

OFFICER MATTHEW FARILLAS, in an
individual and official capacity; CHIEF MIKE
BROWN, in an official capacity as police chief
of the Salt Lake City Police Department;
SALT LAKE CITY CORPORATION; and
DOE DEFENDANTS 1 THROUGH 10,

Defendants.

**MOTION TO DISMISS OFFICIAL
CAPACITY CLAIMS AGAINST
CHIEF MIKE BROWN**

Case No. 2:20-cv-832

Judge Robert J. Shelby
Magistrate Judge Jared C. Bennett

RELIEF SOUGHT AND GROUNDS FOR MOTION

Claims have been brought against Officers Fortuna and Iversen and Chief Mike Brown in their official capacities. These official capacity claims are duplicative of the claims against Salt Lake City Corporation and should be dismissed with prejudice.

RELEVANT FACTS

1. Plaintiffs' have filed a First Amended Complaint alleges causes of action against SLCPD Chief Mike Brown in his "official capacity." (*See generally* First Am. Compl.)
2. The Complaint also alleges claims against Salt Lake City Corporation. (*See generally* Compl.)

ARGUMENT

The official capacity claims brought against Chief Mike Brown should be dismissed with prejudice because they are duplicative and do not state a claim on which relief may be granted.¹ It is well established that "[a] suit against a municipality and a suit against a municipal official acting in his or her official capacity are the same."² In other words, an official capacity claim is simply "another way of pleading an action against an entity of which an officer is an agent."³ It is "in in all respects other than name, to be treated as a suit against the entity."⁴

In this case, Plaintiffs assert official capacity claims against Chief Mike Brown in addition to claims against Salt Lake City Corporation. This Court routinely dismisses official

¹ Fed. R. Civ. P. 12(b)(6) (permitting dismissal of claims where they fail to state a claim on which relief may be granted). *See also Rocky Mountain Helicopters v. Bell Helicopter Textron*, 24 F.3d 125, 128 (10th Cir. 1994) ("A rule 12(b)(6) dismissal is appropriate if, taking all well pleaded facts as true and construing them in the light most favorable to the plaintiff, it is clear that the plaintiff can prove no set of facts which would entitle him to relief.")

² *Allison v. Utah County Corp.*, 335 F. Supp. 2d 1310, 1317-18 (D. Utah 2004) (citing *Watson v. City of Kansas*, 857 F.2d 690, 695 (10th Cir. 1988)).

³ *Kentucky v. Graham*, 473 U.S. 159, 165–66 (1985) (quoting *Monell*, 436 U.S. at 690, n.55).

⁴ *Kentucky* at 166.

capacity claims in such circumstances because they are duplicative⁵ of the claims against the City and it should do so in this case.

CONCLUSION

The official capacity claims against Chief Mike Brown are duplicative of the claims against Salt Lake City and should be dismissed with prejudice.

DATED this 11th day of March, 2022.

/s/ David F. Mull

DAVID F. MULL

Attorney for Defendants Officer Matthew Farillas; Chief Mike Brown; and Salt Lake City Corporation

⁵ See e.g., *Fail v. W. Valley City*, No. 2:04-CV-1094 PGC, 2006 WL 842910, at *5 (D. Utah Mar. 28, 2006) (unreported) (quoting *Gallardo v. Bd. Cty. Com'rs*, 1995 WL 106366, *2 (D. Kan.1995) (“When the municipality is sued along with the municipal officer in his official capacity, the suit against the officer is redundant, improper, and unnecessary and should be dismissed.”); *Catlin v. Salt Lake City Sch. Dist.*, No. 2:08-CV-00362-CW-PMW, 2014 WL 4662466, at *9 (D. Utah Sept. 18, 2014) (unreported) (dismissing the official capacity claim with prejudice when government entity was also named as real party in interest); *Swasey v. W. Valley City*, No. 2:13-CV-00768-DN, 2015 WL 500870, at *1 (D. Utah Feb. 5, 2015) (“when a plaintiff names a municipality and a municipal employee in his official capacity, the claim against the employee in the official capacity should be dismissed”); *Hollenbach v. Burbank*, No. 2:12-CV-608 TS, 2013 WL 1842453, at *8 (D. Utah May 1, 2013) (dismissing official capacity claims).

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of March, 2022, a true and correct copy of the **MOTION TO DISMISS OFFICIAL CAPACITY CLAIMS AGAINST CHIEF MIKE BROWN** was electronically filed with the Clerk of the Court, which sent notice to:

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